IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.1030 OF 2005
IN
EXECUTION APPLICATION NO.183 OF 2004
IN
SUM.SUIT NO.1510 OF 2002

M/s.G.M.Breweries Ltd. ..Plaintiff.

V/s.

M/s.Siddhivinayak Builders & Anr. ..Defendants.

And

Avani Dharmesh Mistry & Dharmesh R.Mistry. ..Intervenor/ Obstructionist.

Ms.Sumedha Rao for applicants.

Mr.O.A.Das for plaintiff.

CORAM: A.M.KHANWILKAR,J

DATE : SEPTEMBER 19, 2005.

P.C. :

1. None appears for applicants. Dismissed for non-prosecution.

2. Later on, counsel for the applicant mentioned the matter pointing out that on account of personal difficulty, she could not attend the court in time. The matter was mentioned after giving notice to the counsel for the Judgment Creditor. The counsel for the Judgment creditor, for the reasons disclosed by the counsel for the applicant, has no objection for

restoring application for hearing to be proceeded on merits forthwith by consent. Accordingly, order dismissing the chamber summons for default is recalled and chamber summons is restored to the file to its original number and heard forthwith by consent.

3. Counsel for the plaintiff/decree holder fairly accepts that compilation of documents filed in terms of order dated August 22, 2005 indicates that the applicant is bonafide purchaser of the premises being flat No.B-603, in building known as "Venus", situated at Chickoowadi, Borivli(West), Mumbai-400 092; for which reason, decree passed against the defendant cannot be executed against the applicant as the applicant is not party to the proceedings.

4. Accordingly, chamber summons is made absolute in terms of prayer clause (b) only with regard to the premises being flat No.B-603, situated at building "Venus" referred to above. In other words, warrant of attachment in respect of the above said premises is set aside and recalled and attachment regarding the remaining building shall operate subject to other orders to be passed by the court. No order as to costs.